IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Date of Decision: 3.8.2007

1. **FAO No.3265 of 2005**

National Insurance Company Ltd. ...Appellant

VERSUS

Smt.Asha Rani and others ...Respondents

2. FAO No.3266 of 2005

National Insurance Company Ltd. ...Appellant

VERSUS

Smt.Babli Devi and others ...Respondents

3. FAO No.3267 of 2005

National Insurance Company Ltd. ...Appellant

VERSUS

Smt. Swari Devi and others ...Respondents

CORAM

HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT:Mr.D.P.Gupta, Advocate
for the appellant(s) in all the three appeals.

Mr.Sandeep Moudgil, Advocate
for respondents no.1 to 3

Mr.Y.K.Malik, Advocate
for respondents no.4, 5 & 6.

Permod Kohli,J. (Oral)

This order will dispose of FAOs No.3265, 3266 and 3267 of 2005 as the said FAOs arise out of the common award dated 12.4.2005 passed by the Motor Accident Claims Tribunal, (Fast Track Court), Karnal.

Learned counsel appearing for the appellant/ Insurance Company has fairly stated that out of the two points raised in the memo of these three appeals, one point relating to the jurisdiction and competence of the Fast Track Court to adjudicate upon the claim petition is squarely covered by a Division Bench judgment of this Court in the case of **The Oriental Insurance Company Ltd. vs. Harvinder Kaur and others, 2007(1) PLR 199.** Insofar as the other point which has been urged in the present appeals by the appellant-Insurance Company regarding its liability is concerned, learned counsel for the appellant(s) has submitted that the Insurance Company disputed the validity of the licence of the driver of the offending vehicle. Accordingly, an issue being issue no.4 in FAO No.3266 of 2005 has been framed by the Tribunal which reads as under:-

> "5.Whether the vehicle in question was being driven in violation of terms and conditions of insurance policy, as alleged?

The Tribunal has returned a finding on this issue against the appellant holding that the onus to prove this issue was upon the Insurance Company, but no evidence has been led. To the contrary, Manoj Kumar, Criminal Ahlmad has appeared in the court as a

witness and stated that the driving licence was taken into possession and as per the driving licence, the driver was entitled to drive motor-cycle, scooter, car and jeep and Tata 407, as per the endorsement made on the licence. Learned counsel for the appellant has stated that he has produced a report of the Licensing Authority which indicates that he was not entitled to drive Tata 407, the offending vehicle. This report, according to the learned counsel, was only tendered before the Tribunal and no witness has appeared from the licensing authority to prove the report. This report does not constitute any evidence without being proved by the competent witness from the licensing authority. Hence no cognizance can be taken of this report. The Tribunal has rightly decided the said issue against the appellant/Insurance Company.

In view of the above, I find no merit in these three appeals which are accordingly dismissed.

(PERMOD KOHLI)
JUDGE

3.8.2007
MFK

NOTE: Whether to be referred to the Reporter or not:YES/NO